



STATE OF DELAWARE


PUBLIC SERVICE COMMISSION

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MEMORANDUM

TO: The Chairman and Commissioners
FROM: Lisa B. Driggins, Public Utilities Analyst 

DATE: March 13, 2019

SUBJECT: IN THE MATTER OF THE APPLICATION OF THE PETITION OF SUSSEX COUNTY, DELAWARE REGARDING METHOD OF NOTICE TO LANDOWNERS ("ELLENDALE AND WINDY CREEK")
(FILED MARCH 13, 2019) – PSC DOCKET NO. 19-0146

Pursuant to 26 Del. C. § 203C(a), no person or entity (including municipalities, governmental agencies, and water authorities and districts created under Title 9 or Title 16) shall begin the business of a water utility nor shall any existing water utility begin any extension or expansion of its business or operations without having first obtained from the Commission a certificate that the present or future public convenience and necessity requires, or will be served by, the operation of such business or the proposed extension or expansion.

On March 11, 2019, Sussex County, Inc. ("County" or the "Company") submitted a written request with the Delaware Public Service Commission (the "Commission") for an alternative equivalent method of notice to landowners of record for a water Certificate of Public Convenience and Necessity ("CPCN").

Sussex County is basing the request for an alternate equivalent method for notice to landowners of record based on Del. Code Title 9 § 6517:

a) The county government may, where it deems it necessary to the preservation of public health, order the owner of any lot or parcel of land within a sanitary or water district which abuts upon a street or other public way containing a sanitary sewer or water main, which is part of or which is served, or may be served, by the county sewerage or water system, and upon which lot or parcel of land a building shall have been constructed for residential, commercial or industrial use, to connect such building with such sanitary sewer or water main.

Pursuant to 26 Del. C. § 203C(e)(1)b.4

(e) The Commission shall issue a certificate of public convenience and necessity if the applicant therefore has submitted, together with the application, the following:

(1) Evidence that all landowners of the proposed territory have been notified by certified mail, or its equivalent, of the filing of the application, such evidence consisting of:

a. A list provided by the United States Postal Service, or the alternate delivery service, of those to whom notice was sent and

b. Copies of all materials returned to sender; and 1 of the following:

1. A signed service agreement with the developer of a proposed subdivision or development, which subdivision or development has been duly approved by the respective county government;

2. One or more petitions requesting water service from the applicant executed by the landowners of record of each parcel or property to be encompassed within the proposed territory to be served;

3. In the case of an existing development, subdivision, or generally recognized unincorporated community, 1 or more petitions requesting water service from the applicant executed by the landowners of record of parcels and properties that constitute a majority of the parcels or properties in the existing development, subdivision, or unincorporated community; or

4. A certified copy of a resolution or ordinance from the governing body of a county or municipality that requests, directs, or authorizes the applicant to provide water utility services to the proposed territory to be served, which must be located within the boundary of such county or municipality.

Pursuant to 26 Del. Admin. C. § 2002-9.7, the Commission, by Order, may authorize a method of providing notice to landowners of record that is equivalent to the methods set forth in Sections 9.3 through 9.6. As mentioned above, the County is required to obtain a CPCN to extend water services to the proposed service areas. This CPCN would be premised on 26 Del. C. § 203C(e)(1)b.4 and the notification requirements are provided in 26 Del. Admin. C. § 2002-9.4, specifically the notices shall be sent by United States Postal Service certified mail, return receipt requested, with delivery restricted to the addressee.

Staff reviewed the request to ensure compliance with the statutory provisions of 26 *Del. C.* § 203C and the Regulations. Staff does not feel that the County has proposed an alternative method of notification to the landowners of record that is “equivalent” to: United States Postal Service certified mail, return receipt requested, with delivery restricted to the addressee.